

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ROCHEUX INTERNATIONAL OF
NEW JERSEY, INC.,

Plaintiff,

v.

U.S. MERCHANTS FINANCIAL GROUP, INC.,)
U.S. MERCHANTS, INC. (a division of U.S.)
Merchants Financial Group, Inc., and/or d/b/a)
U.S. Merchants), THE MERCHANT OF TENNIS)
INC., and DIVERSIFIED REPACKAGING CORP.,)

Defendants.

Hon. Garrett E. Brown, Jr.

Civ. No. 06-6147

ORDER

This matter having come before the Court on the parties' cross-motions for summary judgment (Doc. Nos. 88, 92) and Plaintiff's motion *in limine* (Doc. No. 87) to exclude Defendants' purported expert witnesses; and the Court having heard oral argument on this matter on September 16, 2010 and carefully considered the parties' positions; and for the reasons stated in the accompanying Memorandum Opinion;

IT IS THIS 29th day of September, 2010,

ORDERED that Plaintiff's motion for summary judgment (Doc. No. 88) is GRANTED WITHOUT PREJUDICE IN PART and DENIED IN PART, such that judgment will be entered, in whole or in part, on Plaintiff's claim for breach of contract related to the 2006 deliveries (Count I of the Complaint); and it is further

ORDERED that within 15 days of the receipt of this Order Defendants submit

supplemental documentation and revised calculations of loss offsets (i.e., losses due to unusable material) for January 2006–June 2006, from persons having actual knowledge of these figures; and it is further

ORDERED that Plaintiff may respond to any submissions by Defendants regarding loss offsets within 10 days of the above filing deadline; and it is further

ORDERED that the remainder of Plaintiff's motion for summary judgment (Doc. No. 88) is DENIED; and it is further

ORDERED that Defendants' cross-motion to redesignate affirmative defenses (Doc. No. 92) is GRANTED IN PART, such that Defendants' fourth, eighth, and ninth affirmative defenses will be converted into counterclaims pursuant to Federal Rule of Civil Procedure 8(c)(2), but these counterclaims are STRICTLY LIMITED to the 2006 deliveries; and it is further

ORDERED that the remainder of Defendants' cross-motion for summary judgment (Doc. No. 92) is DENIED; and it is further

ORDERED that Plaintiff's motion *in limine* (Doc. No. 87) is DENIED WITHOUT PREJUDICE, such that Plaintiff may renew this motion in light of the above rulings.

/s/ Garrett E. Brown, Jr.
GARRETT E. BROWN, JR., U.S.D.J.